

UNITED NATIONS CHARTER

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Class-room live lectures edited, enlarged
and updated**

United Nations



United Nations Building Manhattan New York



U N Logo stands for

World Peace



League of Nations, Geneva, Switzerland



Logo of the League of Nations

United Nations

AND STATUTE OF I. C. J.

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INTRODUCTION

The establishment of the United Nations and the proliferation of a dozen Specialized Agencies since the end of World War II, may be considered as a significant development in the wider context of the maintenance of International Peace & Security. The law that has grown as a result of the management and operation of these Institutions is part of the General International Law of Peace & War.

. The beginning of the Present Century witnessed an obvious & evident need for some International Organisation. Ad hoc Conference & meetings, hardly answered the ever growing day to day problems in various fields. .

The earliest Institutions the UPU., ITU. & ILO. - (considered as pattern forming agencies in respect of Organisational structure & methods of procedure) provided ample material and scope to the draftsman of the U.N. Charter, & the Specialised Agencies.

The peace we enjoy today is undefined Peace", U S is the only super power now ! The concept of Cold War- the ideological fighting between the two powers U S and the U S S R-also defined as 'War that is Cold', is no longer a concept to reckon. .

War means devastation & destruction, loss of human lives, annihilation & retrogression. But, how to put an end to War? **Let us wage the last War!** So that there may not be any more Wars! And, of course, the Third World War means, there will be the total annihilation and the end of the World itself.

War, starts in the mind of man.

For MAN who is the worst enemy?

Man !

Hence, if 'Man' is educated, cultured, and becomes Scientifically & Technically aware of his actions, perhaps he will not resort to War. It is this noble objective that is at the root of all International Institutions especially the UNESCO. With the Neutron-bombs, ICBMs, the tirade of attack is on man, not on Chattels!

Hence there is more need to know man today than at any time before!
The International Institutions are a great step forward in 'this direction'.

...MSR

SYLLABUS

1. The League of Nations - Constitution - Reasons for its failure - league & U.N. Comparison.
2. The United Nations :
 - i) Historical Sketch : a) London Declaration b) Atlantic Charter c) U.N.; Declaration d) Dumbarton Oaks 'Proposals e) San Francisco Conference.
 - ii) Preamble, Purposes Principles, iii) Admission to U.N.
 - iv) General Assembly : Composition, Powers and functions, voting Assessment -
 - v) Security Council: Composition, Powers and functions : Voting Double Veto
 - a) Pacific Settlement of International Dispute
 - b) Collective Security Measures - Assessment,
 - vi) Regional arrangements Arts. 52, 53 and 54.
 - vii) ECOSOC.
 - viii) Trusteeship System - Council - Composition, Powers, functions, voting.
 - ix) I.C .J.
 - a) Historical sketch : Arbitration Tribunals - P.C.I.J.- I.C.J.
 - b) Composition, Powers, Functions, Jurisdiction (Statute of I.C.J. for details).
 - x) Secretariat - Secretary General: Appointment, Powers & Functions, ix) Amendment of the Charter.
3. Specialised Agencies.
 - i) Origin - Development of International Organisations, ii) Constitutions of the Specialised Agencies, iii) Salient feature of:
I.L.O., UNESCO., U P.U., I.T.U., I.C.A.O, F.A.O., W.H.O., I.M.F., G.A.T.T., I.B.R.D.,
- IV) International Law Commission.
 - v) European Convention on Human Rights.

QUESTIONS.- BANK

1. a) Briefly state the Salient features of the League of Nations. Account for its failure. ;
b) Compare the U.N. with the League.
2. a) Bring out the Objectives of the U.N. with reference to the Preamble,
b) What are the purposes & principles of the U.N. (Arts 1 & 2)
3. Explain the provisions relating to the admission of New states to the membership of the U.N. Can a member be expelled ? Account for the absence of the provision for withdrawal from membership.
4. Discuss the Composition, Powers & functions of the General Assembly of the U.N. What is its role when the Security Council fails.
5. a) Discuss the Composition, Powers & functions of the Security Council.
b) Detail the procedure for voting & for effecting a 'Double Veto'.
c) Explain in detail the 'Collective Security' measures that may be taken by the Security Council.
6. Discuss the Composition, Powers and Jurisdiction of the I.C.J. Account for its success.
7. Write Short Notes on :
(i) Dumbarton Oaks Proposals (ii) San Francisco Conference (iii) Domestic Jurisdiction (iv) Regional Organisations (v) ECOSOC. (vi) Trusteeship System, (vii) Secretary General, (viii) Amendment of the Charter. (ix) Specialised Agencies, (x) I.L.O (xi). Unesco. (xii) I.M.F. (xiii) W.H.O (xiv) U.P.U. (xv) International Law Commission. (xvi) Universal Declaration of Human Rights.
8. State the facts & the decision in :
(i) Admissions Case (ii) Expenses Cases (iii) South West Africa Cases before I.C.J. (iv) Reparations for injuries suffered in the service of the U.N.

CHAPTER 1

THE LEAGUE

Ch. 1.1. The League of Nations.

i) The first World War came to an end with the Treaty of Versailles 1919, concluded between the Allies & the Germans. This treaty, established an international organization: 'The League of Nations', and also the 'Permanent Court of International Justice' and 'The International Labour Organisation.

The avowed objectives of the League were to (i) maintain International Peace & Security & (ii) to promote International Cooperation.

The preamble stated : 'The High Contracting Parties in order to promote International Cooperation & to achieve International Peace & Security agree to this covenant of the League of Nations.'

ii) Infra-structure : The League consisted of a) The Assembly b) The Council c) The Secretariat and d) The P.C.I.J.

a) **The Assembly** : All the members of the League were members of the Assembly. Each member was entitled to one vote. The Assembly met annually, it could discuss any subject falling within the objectives of the League. In all procedural matters, a simple majority could pass resolutions, but in other matters unanimity was needed.

b) **The Council** : This was the Executive Organ of the League having 5 permanent & other non-permanent members. The Council had jurisdiction to deal with any matter touching International Peace & Security & Cooperation. It had powers in respect of expulsion of members, appointment of Secretary- General, Judges of P.C.I.J. etc.

c) **The Secretariat** : The Secretary-General was the head of the Executive.
(Head Quarters of the League was at Geneva). The entire administration of the League was the responsibility of the Secretary General.

d) **P.C.I.J.** : This had 15 judges, appointed by the Council and the Assembly. The Statue of P.C.I.J. provided for details of jurisdiction, power and functions.

e) The Council had a **mandatory system** (now Trusteeship system) and Economic Council,

f) Other features.

1) The League had made provisions for withdrawal. A member could be expelled for violation of the obligations of the League.

2) The League was not a State or a Super-State but an Organisation of Sovereign States. The freedom of members was retained by members under the concept of unanimity.

Ch. 1.2 Failure of the League.

The League of Nations died in 1945 & was buried, but on the very soil was founded the United Nations ! Specialists have reasoned out for the failure of the League, and, the following are the main reasons :

i) Though the U.S. was a founder-member and had signed the Covenant, the Covenant was not ratified by the Senate of the U.S. Hence, U.S. could not associate it self with the League.

ii) The League's Disarmament Conference miserably failed to control the menace of armament..

iii) The rule of unanimity in taking decisions posed serious problems, & hence not much could be achieved.

vi) The League was part of the Treaty of Versailles and hence, the ills of this treaty had its repercussions on the League.

v) Withdrawl provision was very handy to the members e.g. Germany resigned in 1933, Japan 1931, Italy 1936.

vi) The League failed to prevent aggressions :

a) Japanese aggression of Manchuria : 1931.

b) Italian invasion of Abyssinia 1936

c) Russias invasions of Finland in 1939

d) German invasions thereafter.

Ch. 1.3. Atlantic Charter 1941

On board the ship named 'The Prince of Wales' in the Atlantic Ocean, President Roosevelt and Prime Minister Churchill met, discussed the German's tyranny & aggression and signed a declaration known as the Atlantic Charter.

This condemned the use of force and of territorial aggrandisement by any State. It declared that every State has a right to determine the form of Govt. it should have. It said that it was essential to put an end to the German aggression and War. It hoped that World Peace would be established soon and that States could live in peace and free from fear and abandon the use of force.

Ch. 1.4. The Dumbarton Oaks Proposals.

The failure of the League to avert the aggressions by some States and later the Second World War, did not destroy the strong conviction shared by many peoples of the World that some form of a general international organisation of States was essential to protect the International Community from the Wars.

The 'United Nations Declaration' by 26 States in 1942 pledged to support the Allies. The Moscow Declaration of 1943 expressed the immediate necessity to establish an International Organisation. This was attended by U.K., U.S., Russia & China. This principle was reaffirmed in the Teheran Declaration attended by Roosevelt, Stalin and Churchill.

It is in sequence to these, that a Conference attended by U.K., U.S.A., Russia & China was held at a mansion called 'Dumbarton Oaks', in Washington in Sept. 1944. This made certain proposals which may be considered as the blue-print of the future U.N.O.

It provided that the primary responsibility of maintaining, international peace & Security would be on the Security Council. The 'Big Five' were the permanent members. The proposals were silent about the voting procedure. This was specially discussed at a place called Yalta (Crimea), by Roosevelt, Churchill and Stalin. France & China were later entertained.

The proposals also called for a Conference to meet at San Francisco, to discuss & to adopt the draft proposals of the United Nations.

Ch. 1.5. San Francisco Conference.

This was a sequel to the Dumbarton Oaks proposals which had called for this Conference to discuss the draft of the Constitution of the United Nations & to adopt it

Delegates of 50 States met at San Francisco in 1945 (April 25th to June 26th). The Conference discussed in detail the draft proposals, suggested a number of amendments and finally succeeded in hammering out the Charter of the United Nations and also the Statute of the I.C.J. (an integral part of the U.N)

The Charter was unanimously passed & was duly signed by the delegates of the Conference on 26th June 45. Copies were sent to the member States for ratification. By Oct. 24, 1945, a majority of the members & the Big five had deposited their ratifications, (Art. 110 of the U.N. Charter).

This day-Oct. 24th is celebrated every year as the United Nation Day.

The Charter is a multilateral treaty & also the Constitution of the United Nations. It has an inherent dynamic character which is not normally found in any treaty.

CHAPTER 2 U.N. HISTORICAL SKETCH

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THE LEAGUE OF NATIONS >>>>

The End

CHAPTER 3 U.N. CHARTER

Ch. 3 The Preamble.

i) The name 'The United Nations' was suggested by Roosevelt and it is used to designate the International Community constituted by the Charter.

ii) It is usual to state the objectives in the preamble of a treaty which forms an International Organisation, and, this is so with the Charter of the U.N. But, **as Kelsen points out, the preamble here refers only to some purposes but not all.'**

iii) Preamble-two sentences analysed :-

The Preamble has only two sentences :

The first refers to :

a) We, the peoples of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our life-time has brought untold misery to mankind, and

b) to reaffirm faith in fundamental human rights.

c) to establish conditions to maintain respect for justice, treaty obligations & other sources of International Law.

& d) to promote social progress and better standards of life in larger freedoms.

The means to be adopted are

a) To practice tolerance & to live in peace with one another as good neighbours. to unite our strength to maintain International peace & security.

b) to use peaceful means so that armed force shall not be used except in common interest.

c) To employ social machinery for economic & social advancement of all nations.

Second sentence of the preamble refers to : .

a) The Government through their representatives have agreed to the charter, and

b) Have established the International Organisation called "The United Nations'.

iv) Binding force :

The preamble is part of the Charter. It has the normative character. By itself it does not establish or impose any, obligations. It has set forth certain political
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ideals.. Hence, it has an ideological and not legal importance.

v) Interpretation :

Kelsen, leading jurist, doubts whether the preamble can be used for interpretation. But, it is be noted that Art. 1 of the charter deals with the purposes and principles which contain much of the contents of the Preamble.

Ch. 2.2 Purposes & Principles.

The Charter enumerates the avowed purposes & the principles of the charter in Art. 1. **The purposes are :**

i) To maintain international peace and security, ii)

To develop friendly relations among Nations, iii) To

achieve International Cooperation.

iv) To be a centre for harmonising the actions of Nations in achieving the obligations of the Charter.

The Principles are as follows :

i) Sovereign equality is the basis of the Charter

.ii) All members ensure to fulfil in good faith the charter obligations,

iii) All members agree to settle International disputes by peaceful means.

iv) Members agree not to use force against the territorial integrity or political independence of any State.

v) Members agree to give all assistance to the U.N. and refrain from helping any State against which the U.N. is taking action.

vi) The Organisation ensures even non-members to comply with the charter to maintain International peace & security.

vii) The U.N. does not intervene in the **essential domestic matters** of the-members States..

Kelsen observes : All these are not obligations of such a nature as to empower the U.N. to impose on the Member-Governments the obligation to guarantee to their subjects (the people) the rights stated in the charter, e-g. equality rights, full employment etc.

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Ch. 3.3 Domestic Jurisdiction.

i) Art. 2(7) of the charter, generally called the Domestic Jurisdiction Clause states as follows:

The U.N. is not authorised to intervene in matters which are essentially within the domestic jurisdiction of any State. Further it should not require the members to submit such matters for settlement under the charter.

Exception : The above restriction does not apply when the U.N. is applying the enforcement measures under Chapter VII. This refers to actions taken with respect to 'threats to the peace, breaches of the Peace and acts of aggression'. (Collective security measures taken by the Security Council).

This is an important principle and is commented by some as having the effect of nullifying much of the scope of the charter, and, of reducing it to the status of a purely political document.

This is not warranted according to Oppenheim.

ii) Scope :

a) The Covenant of the League had in Art. 15(8), prohibited from the purview of the League 'matters essentially domestic according to International Law'. The San Francisco Conference, finding that the principles of International Law were in many aspects vague & inadequate & hence omitted reference to International Law. The consequence, is that if a dispute arises as to whether, a matter is 'essentially domestic' it is decided by the General Assembly (or the Security Council) or it may be referred to the ICJ. for its determination.

b). Art. 2(7) bars intervention. This has reference to the dictatorial intervention, and, does not therefore bar discussion, study, making recommendations, as these are not having any binding effect.

c) Both the General Assembly and the ECOSOC have powers to discuss, initiate studies, enquire etc. but these are not interventions. In the case of South Africa's Apartheid Policy, the General Assembly decided that the matter was. not domestic and hence, it could be discussed (1946).

d) Art. 2(7) is not a source of power to the U.N. It is a negative clause. It bars intervention, to preserve the sovereignty and independence of the Member States.

e) Under the exception to Art. 2(7) the Security Council may take action when it decides to intervene, for a combined international action. This action is not barred.

f) The legal efficacy of Art. 2(7) is that it bars the U.N. from legislatively intervening in matters like admission of aliens, tariffs etc (Kelsen).

iii) Practice of the U.N.

a) **Spanish Question** : The General Assembly held that the "Franco Govt," in Spain was not a representative of the people and hence it recommended that Spain should be barred from any International Organisation.

b) **Apartheid** : The South Africa's contention that Apartheid ('to keep apart' : Segregation of the black) was domestic, was rejected by the General Assembly (1946). (Treatment of Indians in South Africa and South West Africa issue).

c) The problems of *Tunisia, Morocco & Algeria, Cyprus & Southern Rhodesia* have been discussed by the General Assembly. This is not Intervention and licence, not barred by Art. 2(7).

v) **Conclusion:**

The inclusion of Art. 2(7) has not reduced the efficacy of the operation of the United Nations. – The enforcement measures are clearly outside the domestic jurisdiction. Whether a matter is essentially domestic is a matter more for political judgment than legal interpretation.

Ch. 3.4. Membership of the United Nations.

1. Universality is the basis of the membership of the United Nations, according to the San Francisco Conference (1945), which brought into existence this Organisation.

The members of the U.N. consist of

i) The Original Members &

ii) Members admitted according to Art. 4.

i) **Original Members:** These are those States that participated in the San Francisco Conference, or those States that signed the U.N. Declaration (1942) and also signed & ratified the 'Charter (1945)-, the total number is 52,

ii) **States admitted to Membership:**

Art. 4 provides that Membership is (a) Open to all other peace-loving States which accept the obligations of the Charter & (b) In the judgement of the Organisation are able and willing to carry out these obligations.

2. Procedure: The application for membership is processed and approved by a 'Steering Committee' and sent to the Security Council. If the Security Council

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decides by *at least* 9 votes including the permanent Five members,
(This is a substantial question), it recommends to the General Assembly.

The General Assembly has the power to decide the two conditions :
Whether the applicant-State is peace-loving and
whether it has International capacity to fulfill the Charter obligations.

If a 2/3 majority decides in favour, the applicant State becomes a member.
Thus, the procedure is limited and qualified

3. Interpretation by I.C.J., In addition to the above two conditions for admission, the U.S.S.R. stated in 1948. that 'the attitude of the applicant State to Nazi aggression in World War and 'diplomatic relations with members of the U.N,' should be considered. Certain applications were rejected on this ground. But U.S.S.R: was willing to accept U.S. recommended applicants, if U.S. agreed to accept U.S.S.R. recommended applicant's ! This created a legal problem and the question was referred to the I.C.J.

for its advisory opinion. The court held that the conditions laid down for admission in Art. 4 are exhaustive and that no extraneous political considerations should be imposed. (In re conditions of Membership in the United Nations 1948). **Another problem arose in 1950.** In case the Security Council fails to recommend the applicant-State can the General Assembly admit by a majority vote. The I.C.J. held that the General Assembly cannot by its own decision admit a State. It may however reject an applicant recommended by the Security Council.

Suspension & expulsion of Members. Provisions have been made for the suspension of a member from the exercise of the rights and privileges of the membership when preventive or enforcement action is taken by the Security Council.

The procedure followed is that on the recommendation of the Security Council the Assembly decides by a majority Italy withdrew in 1936 .

In the San Francisco Conference some States opined that in the U.N. Charter, withdraw was implied. from the provisions & hence, no express provisions were made. .

CHAPTER 4

THE GENERAL ASSEMBLY

Ch, 4.1 The General Assembly.

1. Composition.

The General Assembly is the plenary and the general representative organ of the United Nations. It consists of all the members of the U.N.

This is in reality World Representative Body and an effective **sounding-board** reflecting world public opinion. Its membership is very close to Universality-

2. Nature of decisions.

The General Assembly is a deliberative body. It cannot legislate for the member States; and hence its decisions are recommendatory and not binding.

It is neither a super- legislature nor a supra-legislature.

However, there are some decisions which may result in certain legal obligations:

(a) Approval of the Budget of the Organisation (Art. 17) creates an obligation to contribute to the expenses of the Organisation

(b) Election of the members to other organs of the U.N.

(c) Decision to "admit to" U.N., or to expel a member etc.

3. Sessions.

The Assembly meets in its regular Annual Session. It may meet in special session which may be convened by the Secretary- General, at the request of the Security Council or on a majority vote of the General Assembly.

4. Voting : Sn. 18. The voting procedure is provided for in Art. 18.

Each member is entitled to one vote & one vote only.

Decisions on important matters are taken by a 2/3 majority of the members present & voting, e.g. : Admission or expulsion of members.

On other questions, decisions are taken on a majority vote. Referring a question to the I.C.J. for an advisory opinion in S.W. Africa case was decided as procedural & hence, a majority vote was considered sufficient by the General Assembly

5. Powers & functions.

The powers are stated in Chapter IV.

i) Discussion : It may discuss any matter within the scope of the charter or the powers & functions of any organ of the U.N.. and may make suitable recommendations.

ii) Consideration : It considers general principles of Co-operation in the maintenance of International Peace & Security & matters concerning disarmament & regulation of armaments & makes recommendations.

iii) Initiation : It may initiate studies & make recommendations, (a) for the progressive, development of International Law & of its codification and (b) for promoting international co-operation in economic, social, cultural, educational and health fields, (c) for the realisation of human rights and fundamental freedoms without distinction as to race, sex, religion or language.

iv) Supervisory : The role of the General Assembly as a supervisory body is evident from chapter IX, X & XII. It has a general power to supervise the ECOSOC. & the trusteeship council, and also the various Specialised Agencies.

v) Budget: It has the power to consider the budget & to approve it. (Art. 17) The I.C.J. held that the expenses incurred in the Congo by the U.N. were part of the expenses of the U.N. (Expenses Case).

vi) Annual reports: It receives and considers the annual & special reports from the Organs of the U.N. including the Security Council. These reports are made by the Secretary- General.

vii) Election: It participates in the election of the Secretary General, the judges of the I.C.J., the members of the ECOSOC., the non-permanent members of the Security Council.

viii) Amendment: It participates in making amendments to the U.N.

Charter.ix) Consultation : It may refer any legal question to the I.C.J. for its advisor^ opinion, e.g. Admissions case, Expenses case etc.

x) Rules of Procedure ; The General Assembly has the powers to frame its own Rules of Procedure.

xi) Appointment of Committees : It has the powers to appoint committees, sub-committees etc. There are-six main committees, two procedural committees. 2 standing committees, and about 40 other committees & bodies set up by the General Assembly. Eg. : UNICEE, UNRWR., UNEF. etc.

xii) (a) Secondary Responsibility : This is saddled on the General Assembly when the Security Council fails to discharge its primary responsibility of

maintaining International Peace and Security. »

The General Assembly may discuss any such matter endangering International Peace & Security and call the attention of the Security Council to such situations. However, to avoid mutual conflict, it is provided in Art. 12(1) that the General Assembly should not make any recommendation when the Security Council is seized of such a dispute or situation. In actual practice, such an item is removed from the agenda of the General Assembly.

General Assembly assuming Extra Charter powers:

In recent years there is a tendency of the General Assembly to assume more responsibilities & of playing a larger role than what the charter had initially contemplated. The main reason, seems to be the East-West conflict & the consequent failure of the Security Council to spring up to action. In such situations, the General Assembly has taken the responsibility on itself:

(i) **The Korean Conflict** : With the passing of the 'Uniting for Peace Resolution' (1950) it assumed the power to determine threat to the peace, breach of the peace & acts of aggression & to recommend action including the use of armed force. This power is to be used if the Security Council fails. This was an assertion of the secondary responsibility.

(ii) **Suez question** : When the U.S. resolution for cessation of hostilities was voted in the Security Council (by U.K. and France), the Suez question was transferred to the Assembly

(iii) **Hungarian question** : After the Soviet Veto in the Security Council, the question was, transferred to the General Assembly (1960).

(iv) **Congo Crisis** : On Soviet Veto, in the Security Council, the matter was referred to the General Assembly.

(v) **U.N. Force** : The capacity of the General Assembly to establish by recommendation a United Nations Force figured discussion in the I.C.J. in the expenses case. Certain expenses incurred in this regard were opposed by U.S.S.R. & others, on the ground that there was no charter provision to empower the Assembly to constitute a U.N. force. The court held that the Security Council had primary and 'not exclusive' responsibility. No doubt 'enforcement action' is exclusive to the Security Council, but this did not prevent the General Assembly from making recommendations. It held that U.N. Emergency Force action was not 'enforcement action', but only a 'measure' which could be recommended by the General Assembly.

CHAPTER 5

THE SECURITY COUNCIL

Ch. 5.1 The Security Council.

The Dambarton Oaks proposals, contemplated (in the light of League's experiment) that there should be an executive organ with a limited number of members charged with the primary duty of maintaining International Peace & Security. The objective was to have a small, executive organ functioning continuous and able to spring up to action by taking-decisions quickly and effectively, and to put the machinery under the charter into action whenever International Peace and Security were threatened.

i) Composition :

According to Art. 23 of the U.N. Charter there are 5 permanent members and 10 non-permanent members. The permanent members the Big Five are China, France, U.S.S.R., U.K., and the U.S.A. This special status is not only by virtue of their permanency, but, **also due to 'the inescapable fact of power differentials'** (Dr. Jessup Judge I C J), The 10 non-permanent members are elected for a term of two years by the General Assembly by a 2/3 majority. (There is a bar on a retiring member from seeking immediate re election), In electing such members, the General Assembly should pay special regard to (a) the contribution of the members to the maintenance of International Peace & Security, (b) to the other objectives & purposes of the charter & (c) to the equitable geographical representation. (Art. 23 U N Charter). **Voting**

Procedure : Yalta formula : Just two months before the San Francisco Conference, the three leaders-President Roosevelt, Prime Minister Churchill & Marshal Stalin-met in the Crimea and agreed on a principle called the 'Yalta Formula'. (France and China were later entertained). **This formula provided for (i) the voting**

on procedural matters by a majority of any seven and (ii) on all substantive matters

by any seven including the concurring vote of all the permanent members.

The

Dumbarton Oaks proposals could not settle this. The San Francisco Conference had

a heated discussion on this. As Dr. Arechaga, renowned authority in his 'voting in the Security Council' points out, their Conference felt that the principle of the unanimity of all members of the 'Council of the League was more inimical & dangerous than the majority voting with the concurrence of all the Big Five. Hence, this procedure as in Art. 27 was ultimately passed.

a) **Veto:** Each member of the Security Council has one Veto. In all procedural matters, the decisions are taken with any nine votes, e.g., Appointment of a sub-committee to Laos. In all substantive matters (i.e, other than procedural matters), decisions are taken on a vote of any nine, including the concurring votes of the 5 permanent members.

Exceptions : (1) Decisions under Chapter VI: Pacific settlement of disputes.

(2) Decisions for Pacific settlement, through the Regional Organisations, [Art. 52 (3)]. In these two circumstances, the party to the dispute shall abstain from voting.

A permanent member may therefore Veto a resolution in substantive matters.

c) **Double Veto :** All matters are divided into Procedural & Substantive and, the fact of the resolution depends on the Voting formula under Art. 27. However, the question whether a matter is substantive or procedural cannot be easily determined as there may be many controversies. The San Francisco proceedings gave an indication to solve this by the Security Council itself. The question whether a matter is procedural or not, is itself a substantive question. Hence it should be decided with 9 votes including the Votes of all the Big Five members.

Draft Resolution : The matter is procedural." This is put to vote. A permanent member may exercise -its right and veto the resolution. Hence, the resolution is defeated. The result is the subject is not procedural & hence substantive. Now the matter after discussion is put to vote. Here the permanent member may pass the second veto and defeat the resolution. This is called Double Veto. The U.S.S.R. has exercised this on many occasions)

Abstention of a Permanent Member: The absence of U.S.S.R. from the deliberations of the Security Council to take Collective Security measures created a problem. This was however interpreted to mean 'implied' concurrence in the Korean Conflict. Similarly, in the Namibia case in 1970 the Security Council declared by a resolution that the continued presence of South Africa in Namibia was illegal, but 2 permanent members abstained. The I.C.J. held that this did not affect the resolution and abstention was equal to concurrence.

iii) **Powers & Functions :**

a) The 'primary responsibility of maintaining International Peace & Security is on the Security Council, which shall discharge this function in accordance with the purposes & principles of the Charter and Chapters VI, VII, and VIII:

b) Annual Reports : It submits the Annual -Reports and Special Reports to the General Assembly.

c) Powers concerning the regional agencies and regional agreements are in sns. 52 & 53. These may be used for 'enforcement action.'

e) The Central and supervision of the trust territories including the alteration of the trusteeship a It participates in deciding questions relating to admission, suspension or expulsion of a member.

f) Amendment: It participates in amending the Charter.

g) Election : It participates (with the General Assembly) in electing the judges of the I.C.J., the Secretary- General etc- . ,

Ch. 5.2 Collective Security Measures.

The Primary responsibility of maintaining International Peace and Security is on the Security Council. [Art 24(1)] The specific powers, granted to discharge this responsibility, are in Chapter VI, VII, and VIII.

Pacific settlement of International disputes :

Initiation : The right to submit a dispute to Security Council is given to the General Assembly (Arts. 11 & 12), the Secretary General (Art. 99), a member State Art. 35(1) and Non- member State [Art. 35(2)]. The non-member should accept the obligations of pacific settlement under the Charter..

i) The Security Council 'shall when it deems necessary' call on the parties to a dispute to settle the dispute by (a) Negotiation (b) Inquiry (c) Mediation (d) Conciliation (e) Arbitration (f) Judicial settlement (g) Action by regional agencies or arrangements (h) Other peaceful means. It may investigate any dispute or situation which endangers international peace and security.

ii) On failure of the above measures: it may recommend appropriate measures or methods of settlement i.e., referring to the International Court of justice (Art. 36).

iii) The above two are recommendatory. On failure of the above measures the Security Council determines 'the existence of any threat to the peace, breach of the peace or act of aggression' (Art 39) and decides what measures are to be taken. There are two kinds. (1) Measures not involving use of force. (2) Collective

Security measures with combined armed force.

(1) These are provisional measures which may include interruption of economic relations and interruption of rail, sea, postal, telegraphic, radio and other means of communication. It may also recommend for severance of diplomatic relations. (Art. 41).

(2) Collective Security Measures :

ON the failure of measures short of the use of force, (under Art. 41), the Security Council may take direct action by air, sea or land forces. These may include demonstration, blockade and other operations by air, sea and land.

Agreement ; (Art. 43). The Security Council enters into special agreements with the members of the United Nations, in which the members agree to make available their armed forces, assistance and facilities including right of passage to the Security Council. (This agreement is to be ratified by the Member States).

In order to take urgent military measures, members, should immediately make available their national air-force contingents, for a combined International action.

Military Staff Committee : The above combined action is taken by the Security Council, consisting of the Chiefs of Staff of the "Big Five"¹. Others may be invited by this Committee. This Committee is responsible to give strategic direction and to form sub-committees.

Korean Conflict : (1950-53) : Illustrates the successful and effective collective security measures taken by the Security Council. North Korean troops crossed into South Korean territory, and the Secretary-General initiated this subject in the Security Council. Pacific means failed to resolve. Thereupon, it passed a resolution to assist South Korea, it provided for a Combined International Action. (The U.S.S.R. abstained from voting-abstention was viewed as concurrence). The Military Staff Committee was appointed with the United States Chief of Army, (General MacArthur) as the Commander-in-Chief of the United Nations Forces.

The action was effective and the dispute was resolved.

Congo Conflict: Belgian Govt. declared the

independence of Congo. But, it retained its troops in Congo. The U.N. Force not for enforcement purposes but only to assist the Congo Govt. to preserve its Law & Order. Belgian Govt. withdrew its troops. The U.N.. Force was maintained for some more time to prevent any Civil war. It was later withdrawn

CHAPTER 6

Ch 6.1 The ECOSOC.

i) History :

The Economic and the Social Council is the pivotal organ in economic & social fields. Governmental cooperation in these fields started about a hundred years ago and the U.P.U., and the I.T.U. are the earliest. Under the League, this trend was continued and the Economic & Financial Committees did a commendable job. The Bretton-Wood Conference which created I.M.F. & IBRB. & the Chicago Conference which created I.C.A.O. (1944) are landmarks in this regard. This trend had created an urgency to have greater cooperation in the economic & social fields. The ECOSOC of the U.N. and the Specialised Agencies are a sequel to this.

, ii) Composition : (54 Members).

It consists of 54 members elected by the General Assembly. 9 members are elected for a term of 3 years. A retiring member is eligible for re-election. (In practice the 'big five' are always elected). ;

iii) Voting:

Each member is entitled to one vote. Decisions are taken with a majority voting. It normally meets twice a year.

iv) Powers & functions : .

The ECOSOC is the pivot of economic & social organisation operating under the authority of the General Assembly.

a) Studies : The ECOSOC may initiates studies & make reports to the General Assembly, to any U.N. Members or to the Specialised Agencies, on subjects relating' to International economic, social, cultural, educational, health & related matters.

b) Recommendations : It makes recommendations concerning the observance of fundamental human rights. These may be addressed to the States calling for legislative action. But, these are not obligatory.

c) Draft conventions : It prepares drafts on matters within its competence and

submits to the General Assembly, e.g., Genocide convention, Draft protocol on stateless persons etc.

d) Calling conferences : It may call for International or Regional conferences on subjects within its competence e.g. World Population conference 1954 etc.

e) Assistance : It offers assistance to the Security Council and the General Assembly and also the States & The Specialised Agencies, e.g, Technical Assistance Programmes; Special Fund for development of Underdeveloped Countries 1958. etc.

f) Coordination : It coordinates the work of the Specialised Agencies. It has brought these Agencies in relationship with the U.N., under agreements entered into between each Specialised Agency and the U.N.

g) Commissions : To discharge its responsibility, it may appoint Specific Commissions, e.g. Functional Commissions (with experts), Regional Commissions etc.

h) Other Bodies : It may create other bodies like the U.N. Special Fund 1958. UNICEF.

v) Assessment:

The ECOSOC is an active forum for discussions. It has shown tremendous progress and has many achievements to its credit, as detailed above. Where there are Specialised Agencies in particular fields, the ECOSOC has limited area to operate and hence it is a residuary legatee in that circumstance. Its role is highly commendable and has emerged as the most active and useful organ of the U.N. in connecting the Security Council and the General Assembly.

Ch. 6.2 Regional Organisations.

The U.N. Charter has recognised (Art. 52) the Regional agencies in the field of maintenance of International Peace & Security but subject to certain conditions

i) The activities of such agencies should be consistent with the principles & purposes of the U.N.

ii) Their members are to resort to these Agencies to solve their conflicts and

the Security Council encourages Pacific settlement through such Agencies.

iii) No enforcement action should be taken by such Agencies without the authority of the Security Council . Exception : against an enemy State. i.e., enemy during the Second World War against the Allies.

iv) The Security Council should be informed of the activities undertaken by such Agencies like

NATO North Atlantic Treaty Organisation

CENTO : Central Treaty Organisation

SEATO : South East Asia Treaty Organisation

ANZUS : Australia, New Zealand & United States Security Pact.

These are within the Western Perimeter of defense. As against this the Communist States have their own agencies. The Warsaw Pact 1955 is a direct counterpart of NATO.

All these are primarily military pacts. The essence of these pacts is, "an attack on any Member State shall be considered as an attack on all Members." Each agency, has its own constitutional infrastructure.

3 Trusteeship System (or Council)

i) History :

The Mandate system was created under the League of Nations. The objective was to lend assistance to the colonies & territories of Germany and Turkey detached after the First World War.

Some Advanced States like the U.S.A., U.K., France, Australia, Canada, South Africa etc. were given the mandates a written agreement over certain named territories. The objective was to help these territories to develop their economy, to evolve a political system and to make them independent. The areas were divided into A, B & C with terms and conditions.

e.g.: 1: U.K. got the mandate over Iraq, Palestine, British Cameroons, British Tagoland, Tanganika.

2. France got the mandate over French Cameroons, Syria and Lebanon.

3. South Africa got the mandate over South West Africa (Namibia).

Under the U.N. this was called as the Trusteeship system ; the Mandate territories, the territories detached from Germany (after the Second World War) and other territories voluntarily placed became the "Trust Territories".

In case of Namibia, South Africa, claimed that it was part of her territory. This was referred to the I.C.J. which held (1) that this was a sacred trust of civilisation. (2) that the U.N. was a successor to the League & hence, the General Assembly had powers under the Charter.

ii) Objectives of Trusteeship :

The paramount obligation is 'to promote the political, economic, social and educational advancement of the inhabitants of the trust territories' and to encourage human rights and fundamental freedoms. There is also the obligation to develop progressively and to grant independence. Agreements were entered into by the concerned States placing the territories under the Trusteeship system. These were approved by the General Assembly.

iii) Trusteeship Council :

This is one of the principal organs of the United Nations, a)

Composition :'

It consists of those administering the trust territory, other permanent members of the Security Council as are not administering, and others. There should be an equal number of those members of U.N. who are administering and those who are not.

b) Powers and functions :

The Trusteeship Council may

•1.- Consider the reports of administering authorities.

2 Accept petitions. 3To visit the trust territories. To send questionnaire and collect data thereon, and, submit the Annual Report.It may frame its own .rules of procedure. may take the assistance of ECOSOC. & the Specialised Agencies. **Vote : Voting is on majority basis**

vi) Status of Namibia :

Under the Mandate, South Africa was given South West Africa (Namibia) under the 'C' Class mandate. South Africa extended its "Apartheid" policy to Namibia. This was against the terms of the mandate. Further, it claimed Namibia as part of its territory. The I.C.J. has held : (3 occasions).

1) The mandate- (now trust) -was a sacred trust of civilisation.

2) That the U.N. is the successor to the League.

3) That the continued presence of South Africa, in Namibia was illegal & hence, it is under an obligation to withdraw.

Later developments:

Namibia obtained full independence from South Africa in 1990, and got [Walvis Bay](#) and the [Penguin Islands](#), from South African in 1994.

v) Assesment:

The Trusteeship system has operated very successfully and as on date all the territories kept. under trust, have become independent Hence,, the system is a self-liquidizing without any function. The U.N. is busy in providing the Trusteeship Council new assignments.

CHAPTER 7

JUDICIAL SETTLEMENT

Ch. 7.1 International Arbitration.

i) History : Arbitration is the oldest known institution to resolve International disputes; its origin can be traced to the Lagash-Umma Treaty of 3000 B.C. (Nussbaum: History of the Law of Nations). From the modern standpoint, its history starts with the Jay Treaty of 1794 between the U.K. & the U.S.A. The Albania claims Arbitration 1872 gave a new impetus to its developments. Over hundred cases have been decided since then. Thus, it became a handmaiden of international legislation. International legislation. A large number of arbitration treaties were made, during these years.

The Hague Conventions of 1899 & 1907 laid-the foundation for a permanent Court of Arbitration. It consisted of the names of a panel of judges and the States would select the judges of their choice to act as arbitrators. This did a remarkable job. Some important decisions are : Pious Fund Case (1902. North Atlantic Coast Fisheries Case (1910) & Savarkars Case 1911). T no more

(1911). The court was no more than 'a method and a procedure' but it paved the way for future development.

The Peace Treaty of 1919, brought into existence the Permanent Court of International Justice. This Court had a permanently constituted tribunal, had a permanent registry and other offices like that of a Court, it had 15 judges on its panel, with head-quarters at **the Hague**.

The U.N. Charter replaced this with the International Court of Justice

PEACE PALACE



I C J , The Hague, Netherlands

. Ch. 7.2. The International Court of Justice : (I.C.J.)

The International Court of Justice was established under the U.N. Charter (Arts. 92-96). It is the Principal Judicial Organ of the U.N. and is to function according to the Statute of the I.C.J. which is an integral part of the Charter.

i) Membership : All the members of the United Nations are ipso facto parties to the Statute, other States may become parties subject to conditions of (a) the acceptance of the Statute & the Charter and (b) an undertaking to 'meet the expenses of the court.

ii) Composition : The court consists of 15 judges ; (no two judges should be nationals of the same State). They form a body of independent judges. The qualifications prescribed are that they must be persons of high character possessing the highest legal qualifications required for appointment to their State's highest offices, they must be jurisconsults of recognized competence in International Law.

iii) Elections : The nomination of candidates is made by the members of the Permanent Court of Arbitration and the National Groups after consulting their highest court of justice & legal faculties. A list is prepared by the Secretary-General.

Care is taken to see that the main forms of civilization and of the principle legal systems of the World are represented.

The General Assembly elects with an absolute majority vote. The election is considered as procedural and hence, the Security Council elects with any 9 votes. The method followed in election is called the Root-Phillimore Plan.

vi) Tenure : Each judge holds his position for 9 years. He may stand for immediate re-election. A judge may resign by tendering his resignation to the President of the Court. A judge may be dismissed if he has ceased to fulfill the required conditions, but, this is to be decided by the unanimous vote of the judges of the Court. This is notified by the Registrar of the Court,

v) Status : As a member of the Court, the judge enjoys diplomatic privileges and immunities (Art. 19). He exercise his powers impartially and conscientiously.

He should not exercise political or administrative functions or engage in any occupation. He should not act as agent, counsel or advocate.

vi) Seat : The seat is at the Peace Palace, The Hague, The Netherlands. It remains permanently in session.

vii) Rules of Procedure : The Rules of Court are framed by the Court itself. In 18\972 & 1976 the Court has laid down the Rules of Procedure in conformity with the Statute of the I.C.J.

viii) Application of International Law. (Art. 38) : The Court in deciding International disputes shall apply in the following order :

- 1. International treaties & Conventions.**
- 2. International Customs.**
- 3. General Principles of law recognised by Civilised Nations,**
- 4. Judicial Precedents**
- 5. Juristic Writings**
- 6. Ex aequo et bono (Equity and good conscience)**

ix) Jurisdiction : The jurisdiction of the court may be grouped into :

- a) Contentious Jurisdiction.**
- b) Compulsory Jurisdiction.**
- c) Advisory Jurisdiction.**

The details are as follows :

- a) Contentious Jurisdiction : Art, 36(1).**

This includes all contentious cases which the States refer to the I.C.J. It also includes all matters under the Charter or the treaties. This means, that both the parties should agree-and this is done under a special agreement called as 'Compromise', Itjs

not that both the parties jointly agree. When a State refers the dispute to the I.C.J., the other may give its consent then or at any time. Enough if the parties voluntarily submit to the Court's Jurisdiction.

b) Compulsory Jurisdiction :

Art. 36(2) provides for 'Optional Clause'. This provides that the parties to the Statue may at any time make a declaration stating that it recognises as compulsory the jurisdiction of the Court ipso fact. This may be in respect of all legal disputes concerning :

1. The interpretation of a treaty.
2. Any question of International Law,
3. a faact, the breach of which constitutes an International obligation.
4. Extent opf reparation (Compensation) for breach of International obligation [Art. 36(2)1.

The party may make such a declaration (i) Unconditionally (ii) Ort reciprocal basis or (Hi) For a fixed period.

If the above circumstances exist, then the jurisdiction is compulsory. This is an enabling provisions. A number of States (about 45) have accepted this on grounds of reciprocity.

c) Advisory Jurisdiction:

The General Assembly, the Security Council or the Specialised Agencies (except U.P.U.) are empowered to ask for an advisory opinion. It may be on any legal question arising within the scope of the activities of the Organisation.

An advisory opinion has no binding force. The interpretation is mainly the duty of the Court, and, the Court will not reject a request when it is made ot it. The opinions are held with great respect by the concerned parties.

e.g. : 1.Reservation as to the Genocide Convention, 2. Interpretation of peace Treaties, 3 Western Sahara , 4Expenses Case 5 Admissions Case , Status of Namibia etc

CHAPTER 8 SECRETARIAT

Ch. 8.1 The Secretary General.

1. History:

"World Chancellor' was the name suggested earlier but the League settled for the 'Secretary - General'. **He is the Chief Administrator and the Chief Executive according to the U.N. Charter.**

2. Appointment:

He is appointed by the General Assembly on the recommendation of the Security Council. His appointment is a substantial issue and hence requires the concurrence of the 'Big Five'.

3. Tenure :

This is not fixed by the Charter. The General Assembly in 1946, fixed the tenure at 5 years. Mr. Trygvie Lie was appointed for 5 years. There was deadlock in the Security Council in his continuation after 5 years, but, the General Assembly continued him for 3 years. Mr. Dag Hammershjold succeeded him, but died before the tenure ended. Mr. U. Thant was appointed. Dr. Waldheim succeeded him. Then Mr Javier Perez de Cuellar, Mr Boutras Gaudi, and then Mr . Kofi A. Annan (Ghana). **The present Sec Gen is Mr Ban Ki Moon[Ghana]**

The normal tenure is 5 years by convention.

4. Powers & functions :

i) **Administrative** : A variety of administrative, technical & financial powers & functions are saddled on him. His primary duties include the efficient working of the U.N. its Organs, Committees, Conferences etc. He gives legal & technical advice.

He secures coordination & cooperation in the work programmes of the Secretariat and the Specialised Agencies.

He helps in the preparation of studies & reports. In financial matters

He prepares the Budget of the U N. He submits annual Reports to the General Assembly on the Organisation.

ii) **Executive** : a) He may bring to the attention of the Security Council matter which may threaten International Peace & Security, e.g. Korean Conflict, Congo Crisis, he initiated before the Security Council.

b) He has powers to investigate & make inquiries and advise the organs of the U.N

c) He has claimed and exercised a general power on his own initiative in the interest of International Peace & Security, e.g, The Lebanon problem, Laos issue etc. Apartheid of South Africa issue etc.

d). Various other functions have been saddled on him by the U N Organs. He may act as a mediator or as an 'informal adviser to the Governments. He has representative functions and acts 'as delegate or agent of the U.N. He represents the U.N. before the I.C.J., the Administrative Tribunal etc.

iii) **Role** : It is very difficult to assess his role but much depends on his personality and approach. He as the chief of the Secretariat has to play as the Chief Spokesman of the U.N., He acts as a coordinator He with the Organisation acts as a 'make-weight' in the balance of influence between the major Powers.

Ch. 8.2 Amendment of the U.N. Charter. Arts 108 &109

Provisions are made in the U.N. Charter to amend (or revise) the Charter .

Procedure :

Adoption & ratification : The proposal to amend must be passed by the General Assembly.

Such a proposal must then be ratified (according to the processes) by 2/3 majority of the Members of the U.N. including the Permanent Members.

ii) a) General Conference : A 2/3 any 9 votes of the Security Council is essential to convene a 'General Conference' to amend or revise the Charter.

b) Procedure : The recommendations so made must be ratified by a 2/3 majority of the General Assembly including the 5 Permanent Members of the Security Council

.iii) **Amendments so far** : (a) In ,1963, the Charter was revised increasing the membership of the Security Council from 11 to 15, and, that of the ECOSOC from 18 to 27. The voting pattern in the Security Council was changed. For Substantive matters, there must be a votes, including the permanent 5, for procedural matters: There must be any nine votes. This was ratified and became operative from 1965. In 1965,

it increased from 7 to 9, the number of Votes required in the Security Council in convening a Conference for revising the charter. This is duly ratified. In 1971 it increased the membership of the ECOSOC, from 27 to 54. This has been ratified.

CHAPTER 9 Specialised Agencies

.i) Introduction : The U.N. Charter has referred to the Specialised Agencies (in Art. 57 & 58), as those established by Inter-Governmental Agreements. These cover a wide range of subjects : economic, social, cultural, educational, health & related fields. These Agencies have their own constitutions, and Infra-Structural Organs, with wide International responsibilities. The ECOSOC of the United Nations has brought these Agencies into relationship with the U.N. by agreements. The San Francisco Conference desired to have these Agencies as those operating almost on global basis, and excluded regional agencies.

ii) meaning and Scope :

a) These Agencies are primarily 'functional' and the avowed objective is to concentrate on one particular field e.g., W.H.O. on Health, I.L.O., on Labour, U.P.U. on postal communications etc. These Agencies are empowered to establish highest International Standards 'in their area of operation.

b) Each Agency has its own Constitution and a General Representative Organ, a restricted representative organ (Executive) and a Secretariat.

Each establishes International Standards and has its own methods to implement these standards.

iii) Agencies : There are

I.L.O. : International Labour Organisation.

U.P.U. : Universal Postal Union.

I.T.U. : International Telecommunications Union.
 F.A.O. : Food & Agricultural Organisation.
I.C.A.O : International Civil Aviation Organisation.
 I.M.F. : International Monetary Fund.
 I.B.R.D. : International Bank for Reconstruction & Development.
 UNESCO : United National Educational, Scientific & Cultural Organisation.
 W.H.O. : World Health Organisation
 W.M.O. : World Meteorological Organisation
 I.M.C.O. : International Maritime Consultative Organisation
 I.F.C. : International Finance Corporation.

All these have many common features & follow a general pattern but there are some difference based on the functional & operational requirements.

Ch. 9.2 International Labour Organisation (I.L.O) i)

Introduction :

This is one of the Oldest Organisations and was part of the peace Treaty of 1919. In 1945, its Constitution was redrafted and brought into relationship with the United Nations by an agreement. The Constitution was based on three fundamental principles :-

a) **'Labour is not a Commodity**

'Poverty anywhere is a danger to prosperity everywhere'

b) **Freedom of Association & 'Collective bargaining' are the basic rights, of the workers.**

ii) **Infra Structure** :- Membership is open to all States.

The basic principle is the 'tripartite' structure containing the workers, the Employers & the Govt. Representatives. This is reflected in its Organs, the plenary body, called the International Labour Conference & the Executive called the Governing Body. International Labour Conference meets annually and declares the highest International Standards in the field of Labour. This may be in the form of 'Recommendations' or 'Conventions'. Provisions are made for the follow-up action.

The Governing Body is the Executive body with 40 Representatives (Govts. 20, Workers : 10, Employees: 10) Its tenure is 3 years. It is a continuously operating organ of the I.L.O.

Advisory opinion : The I.L.O. through! the ECOSOC may ask the I.C.L its

advisory opinion. There is a Secretariat, headed by the Director General.

Assessment : This has worked very successfully and has established high labour standards on a global scale e.g.: 'Hours of Work' (8 Hours), 'Equal pay for equal work', 'Protection of Workers', etc.

Ch. 9.3 World Health Organisation :

This is a Specialised Agency of the United Nations. It has a Constitution.

i) Major Objective :

Attainment of the highest possible levels of health. The W.H.O. is a Directing & Coordinating Agency.

ii) Membership :

Open to all States & the intention is to make it Universal.

iii) Structure :

Health Assembly : Plenary Organ & General Representative Body Experts represent Member States. Executive Board : has 18 Member-States. They are technically qualified persons. The Secretariat is headed by the Director-General.

Assessment : W.H.O makes the regulations which are unique and come into effect on ratification by Member-States. Hundreds of these health regulations are in operation, e.g.: International Sanitary Regulations, Nonmenclature Regulations. It has laid down Scientific & Professional Standards. It renders service to Govts. in connection with the Essential Drugs and Equipment. It has very successfully operated many schemes & programmes (like Malaria ERadication Programme) in various fields T.b., Communicable diseases, Nutrition, Public Health Administration etc.

Ch. 9.4. U.N.E.S.C.O. :

This is a Specialised Agency of the U.N. It has a Constitution.

i) Objectives: •

It aims at contributing to World peace & Security, through education, science & culture. It desires to further Universal respect for human rights & to the rule of law.

ii) Functions :

msrlawbooks UN & ICJ ..

Three major functions are assigned to it:

1. Collaboration
2. Popular Education & spreading of culture
3. Maintenance, increase & diffusion of knowledge.

Membership :

Open to the Members of the United Nations. **General Conference :**

Consists of delegates of all Member States. Passes resolutions establishing standards in its field of activity. It passes conventions & recommendations.

Executive Board :It has 24 members elected by, the General Conference and meets twice a year. It discharges the powers given to it by the Conference.

There is a Secretariat of the UNESCO.

Assessment : it- has a great variety of functions & activities. It has implemented scores of programmes : Compulsory free primary education, Cooperation among Scientific Research Institutions etc. The Universal Copyright convention is an achievement of UNESCO.

*****THE END**

REFERENCE SECTION

SELECTED ARTICLES

THE U N CHARTER & STATUTE OF THE I C J

PREAMBLE

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

- to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
- to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and
- to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
- to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

- to practice tolerance and live together in peace with one another as good neighbors, and
- to unite our strength to maintain international peace and security, and
- to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and
- to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nation

CHAPTER I: PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2 The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II: MEMBERSHIP Article 3 The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4 Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5A A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6 Expulsion

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III: ORGANS

Article 7 There are established as principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8 The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV: THE GENERAL ASSEMBLY

COMPOSITION Article 9

1. The General Assembly shall consist of all the Members of the United Nations.
2. Each Member shall have not more than five representatives in the General Assembly.

FUNCTIONS and POWERS Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.
2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.
3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.
2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of: a. promoting international co-operation in the political field and encouraging the progressive development of international law and its codification; b. promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.
2. The further responsibilities, functions and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.
2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16 The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17 The General Assembly shall consider and approve the budget of the Organization.

1. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

2. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

VOTING Article 18

1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.
3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

PROCEDURE

Article 20 The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations. **Article 21** The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session. **Article 22** The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V: THE SECURITY COUNCIL COMPOSITION :

Article 23

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.
3. Each member of the Security Council shall have one representative.

FUNCTIONS and POWERS

Article 24 In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

1. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.
2. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25 The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

VOTING Article 27

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

PROCEDURE

Article 28 The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization. The Security Council shall hold periodic meetings at which each of its members may, if it so desires be represented by a member of the government or by some other specially designated representative. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29 The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions. **Article 30** The Security Council shall adopt its own rules of procedure, including the method of selecting its President. **Article 31** Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected. **Article 32** Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI: PACIFIC SETTLEMENT OF DISPUTES **Article 33** *The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.* **Article 34** *The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.*

Article 35 Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36 The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37 1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council. 2 If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38 Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the

parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII: ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39 The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40 In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41 The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42 Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43 All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security. 2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided. 3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44 When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45 In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46 Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47 There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

1. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.
2. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.
3. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

Article 48 1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine. 2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49 The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50 If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51 SELF DEFENCE

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the

exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII: REGIONAL ARRANGEMENTS

Article 52 Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

1. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.
2. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.
3. This Article in no way impairs the application of Articles 34 and 35.

Article 53 The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54 The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security..

CHAPTER XIV: THE INTERNATIONAL COURT OF JUSTICE

Article 92 The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93 All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94 Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95 Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96 The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV: THE SECRETARIAT

Article 97 The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98 The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99 The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100 In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101 The staff shall be appointed by the Secretary-General under regulations established by the General Assembly. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on

as wide a geographical basis as possible.

CHAPTER XVIII: AMENDMENTS

Article 108 Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

Article 109 A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

1. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.
2. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX: RATIFICATION AND SIGNATURE

Article 110

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.
2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.
3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.
4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

REFERENCE SECTION [Continued]

SELECTED ARTICLES

THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

Article 1

The International Court of Justice established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I - ORGANIZATION OF THE COURT

Article 2 The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are juris -consults of recognized competence in international law.

Article 3 1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state. 2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

Article 4 1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.

2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

Article 5 1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging

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to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

Article 6 Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

Article 7 1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall **submit this list to the General Assembly and to the Security Council.**

Article 8 The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

Article 9 At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

Article 10 1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council. .

Article 13 1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.

4. In the case of the **resignation of a member of the Court**, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

Article 19 The members of the Court, when engaged on the business of the Court, shall **enjoy diplomatic privileges and immunities.**

Article 20 Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

Article 21 1. The Court shall elect its President and Vice-President for three years; they may be re-elected. 2. The Court shall appoint its Registrar and may provide for the appointment of such other

officers as may be necessary.

Article 22 1. The seat of the Court shall be **established at The Hague**. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable. 2. The President and the Registrar shall reside at the seat of the Court. .

3. **A quorum of nine judges shall suffice to constitute the Court.**

CHAPTER II - COMPETENCE OF THE COURT

Article 34 1. **Only states may be parties in cases before the Court.**

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

Article 35

1. **The Court shall be open to the states parties to the present Statute.**

2. **The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.**

3. **When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court**

Article 36

1. **The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.**

2. **The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:**

a. **the interpretation of a treaty;**

b. **any question of international law;**

c. **the existence of any fact which, if established, would constitute a breach of an international obligation;**

d. **the nature or extent of the reparation to be made for the breach of an international obligation.**

3. **The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.**

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. **Article 37** Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized by civilized nations;

d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

CHAPTER IV - ADVISORY OPINIONS

Article 65 1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

Article 66 1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

Article 67 The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

Article 68 In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V - AMENDMENT

Article 69 Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

Article 70 The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69. **THE END**

